

House Bill 19

By: Representatives Oliver of the 83rd, Benfield of the 85th, Gardner of the 57th, and Ashe of the 56th

A BILL TO BE ENTITLED
AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to add a points penalty for the use of cellular, hands-free, or mobile telephones or other wireless communication devices under certain circumstances; to change certain provisions related to exercising due care in operating a motor vehicle and the proper use of radios and mobile telephones; to provide for definitions; to provide for a penalty; to provide for exceptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising subparagraph (c)(1)(A) of Code Section 40-5-57, relating to the assessment of points in the suspension or revocation of the license of a habitually negligent or dangerous driver, as follows:

"(c)(1)(A) Except as provided in subparagraph (C) of this paragraph, the points to be assessed for each offense shall be as provided in the following schedule:

Aggressive driving. 6 points

Reckless driving. 4 points

Unlawful passing of a school bus. 6 points

Improper passing on a hill or a curve. 4 points

Exceeding the speed limit by more than 14 miles per hour

but less than 19 miles per hour. 2 points

Exceeding the speed limit by 19 miles per hour or more

but less than 24 miles per hour. 3 points

Exceeding the speed limit by 24 miles per hour or more

but less than 34 miles per hour. 4 points

Exceeding the speed limit by 34 miles per hour or more. 6 points

27	Disobedience of any traffic-control device or traffic officer.	3 points
28	Too fast for conditions.	0 points
29	Possessing an open container of an alcoholic beverage while driving.	2 points
30	Failure to adequately secure a load, except fresh farm produce,	
31	resulting in loss of such load onto the roadway which results in	
32	an accident.	2 points
33	<u>Driving while distracted – use of wireless communication device.</u>	<u>1 point</u>
34	Violation of child safety restraint requirements, first offense.	1 point
35	Violation of child safety restraint requirements, second or	
36	subsequent offense.	2 points
37	All other moving traffic violations which are not speed limit	
38	violations.. . . .	3 points"

39 SECTION 2.

40 Said title is further amended by revising Code Section 40-6-241, relating to exercising due
 41 care in operating a motor vehicle and the proper use of radios and mobile telephones, as
 42 follows:

43 "40-6-241.

44 (a) For purposes of this Code section, the term:

45 (1) 'Device' means a cellular, hands-free, or mobile telephone, wireless communication
 46 device, personal digital assistant, radio, or citizens band radio.

47 (2) 'Engaged in a call' means talking or listening via a device and shall include holding
 48 such device to activate, deactivate, or initiate a function of such device.

49 (b) A driver shall exercise due care in operating a motor vehicle on the highways,
 50 roadways, and streets of this state and shall not engage in any actions which shall distract
 51 such driver from the safe operation of such vehicle, ~~provided that the proper use of a radio,~~
 52 ~~citizens band radio, or mobile telephone shall not be a violation of this Code section.~~

53 (c)(1) Except as provided in subsection (d) of this Code section, any driver who shall
 54 knowingly:

55 (A) Operate a motor vehicle which is involved in an accident resulting in death or
 56 bodily injury of any person or in property damage; and

57 (B) Be engaged in a call at the time of the accident
 58 shall be guilty of driving while distracted.

59 (2) The inference that the driver of such motor vehicle was driving while distracted may
 60 be rebutted by evidence tending to show that engaging in a call at the time of the accident
 61 did not contribute to the accident.

62 (d) Subsection (c) of this Code section shall not apply to:

(1) Engaging in a call for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital, physician's office, or health clinic; an ambulance company or corps; a fire department; or a police department; and

(2) Any of the following persons while in the performance of their official duties: a law enforcement officer; a member of a fire department; or the operator of an emergency vehicle designated as such under Code Section 40-8-92.

(e)(1) Any person convicted of a violation of subsection (b) of this Code section shall be guilty of a misdemeanor punishable as provided in Code Section 40-6-1.

(2) Any person convicted of a violation of subsection (c) of this Code section shall be guilty of a misdemeanor punishable by a fine not to exceed \$500.00 and assessment of points pursuant to Code Section 40-5-57."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.